

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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BOARD OF TRUSTEES OF THE
UNITED UNION OF ROOFERS,
WATERPROOFERS & ALLIED
WORKERS LOCAL UNION NO. 8
W.B.P. & A FUNDS,

Plaintiff,

- against -

ORDER
09-CV-1076 (RRM) (ALC)

DANA RESTORATION,

Defendant.

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ROSLYNN R. MAUSKOPF, United States District Judge.

This action arises under both section 515 of the Employee Retirement Income Security Act, 29 U.S.C. § 1301 (“ERISA”), and under § 301 of the Labor Management Relations Act, 29 U.S.C. § 185 (the “Taft-Hartley Act”). On September 14, 2010, in a Report and Recommendation (“liability R&R”), Magistrate Judge Andrew Carter recommended that defendant be found liable for contributions covered by the parties’ collective bargaining agreement. However, Judge Carter found inadequate plaintiff’s documentation in support of its request for damages and attorneys’ fees, and recommended that said request be denied with leave to renew. No party filed an objection to the liability R&R. On September 29, 2010, this Court adopted said R&R and ordered that plaintiff renew any request for damages and fees by October 29, 2010. Plaintiff renewed its request with supplemental documentation on October 28, 2010, and on October 30, 2010, this Court referred the issue of damages and fees to Judge Carter.

On September 6, 2011, Judge Carter issued a Report and Recommendation (“damages R&R”) recommending that plaintiff be awarded judgment in the amount of \$62,247.46. Judge Carter recommended that plaintiff’s motion for attorneys’ fees be denied. Judge Carter reminded

the parties that, pursuant to Rule 72(b), any objection to the R&R was due 14 days from the date of the R&R, September 20, 2011. No party has filed any objection.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, the Court has reviewed the R&R for clear error and, finding none, concurs with the R&R in its entirety. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007).

Accordingly, the R&R is adopted in its entirety, and it is hereby ORDERED that plaintiff's motion for default judgment (Doc. No. 16) is GRANTED. Judgment shall enter in favor of plaintiff and as against defendant Dana Restoration in the total sum of \$62,247.46, representing: \$49,782.77 in unpaid contributions; \$13,534.69 in interest on unpaid contributions; \$1,500.00 in auditor's fees; and \$430.00 in costs. The plaintiff's request for attorneys' fees is DENIED.

The Clerk of Court is directed to enter judgment accordingly, mail a copy of this Order and the judgment to defendant, and close this case.

SO ORDERED.

Dated: Brooklyn, New York
September 23, 2011

Roslynn R. Mauskopf

ROSLYNN R. MAUSKOPF
United States District Judge